

**From:** Bank of the Cascades, Kay Smith

**Subject:** Overdraft Protection Programs

Date: Aug 06, 2004

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Proposal: Interagency Guidance on Overdraft  
Protection Programs  
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Comments:

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Thank you for the invitation to submit comments on the proposed Interagency Guidance on Overdraft Protection Programs. Our institution is a \$900 million, publicly traded community bank in Oregon. We have offered a very successful overdraft protection program for the last three years. We continually receive positive comments from our customers because we have paid checks overdrawn under the program rather than returning them to the payee. Returns can possibly cause the customer to incur additional fees as well as lose their ability to issue future checks to certain merchants. Our customers appreciate the fact that the overdraft situation is private and the payee is not made aware of any shortage of funds.

While we appreciate the fact that some guidance for overdraft protection products may be needed, we believe the expense of implementing the items detailed under Best Practices will result in significant expense and burden.

Safety and Soundness Considerations:

Requirement for risk-based capital treatment of unused commitments:

The proposed guidance indicates that if we "routinely communicate the available amount of overdraft protection to depositors" we must report unused line amounts in regulatory reports. This assumes that all our customers could overdraw their accounts at once up to the limit of their overdraft protection. Since the program is designed for inadvertent overdrafts, it's hard to imagine the need to report the entire amount as an unused commitment. Additionally, we interpret your request for comments as concluding that as long as the "unused commitments are unconditionally cancelable by us" as rendering this non-applicable for our bank.

Charge off overdraft balances within a 30-day timeframe:

We performed an in-depth analysis of our overdraft protection program to ascertain the dollar amount of overdraft recovery we receive after 30 days overdrawn. For each month reviewed, well over \$30,000 was collected at 30+ days overdrawn. Approximately 60% of the recovery occurred during days 30-39, with the balance spread out fairly evenly through day 54. Over \$1,000 was collected each month at day 60+ (we currently charge off at day 70). Based on this analysis, the monetary loss would be significant if we charged off accounts covered under our overdraft protection program at 30 days. The primary reason for our success in recovering these overdrafts is because the customer is incented to repay as their account is still available to them. Under the old paradigm of charging off accounts at 30 days overdrawn, few customers repaid after 20 days. It is critically important that we be provided the ability to work within the current realities and not the realities of the past

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Rather than the requirement to charge off accounts at 30 days overdrawn, a 60 day time frame is much more realistic. With the overdraft still on the books, automated collection letters can easily be produced to encourage the customer to cover their overdraft. Once an account has been charged off, collection processes are more cumbersome. Also, when an account is charged off, a report is made to a consumer reporting agency which has a negative consequence for the customer.

Best Practices:

Explain check clearing policies:

We believe this adds little value as it relates to an overdraft protection program. The customer has written checks or initiated electronic transactions against their account with the assumption that they have sufficient funds to cover all. The order in which items are processed should not come into play any more than for a customer who is not covered by an overdraft protection program.

Illustrate the type of transactions covered:

Our customers rely on the overdraft protection program to cover an overdraft no matter what type of transaction causes the overdraft. We don't believe it is necessary to list the types of covered transactions.

Provide election or opt-out of service:

There are no fees involved if overdraft protection is automatically provided but never used. It provides the customer with protection from returned items if it is used. Providing the customer with adequate "first-time user" information at the time of an overdraft is much more customer friendly than trying to explain that, because they opted out at account opening, their items were returned. We don't believe customers open an account with the idea that they are going to need overdraft protection.

Monitor overdraft protection program usage. Monitor excessive consumer usage and inform customer of other available options:

As long as the customer is within the time frames of the overdraft protection program, how would we determine "excessive" usage? We work with customers who are having trouble working within the program time frames and offer alternatives, but do not believe there is a reason to monitor "excessive" usage.

Clearly disclose program fee amounts:

If the bank's standard NSF fees apply to overdraft protection fees, we do not believe it is necessary to restate overdraft protection fees. The NSF fees are disclosed in writing when the account is opened. If fees are changed, the new fees are disclosed in advance in writing. Asking banks to reprint disclosures is a needless expense.

Alert consumers before a non-check transaction triggers any fees:

Prior notice is not possible with POS and pre-authorized transactions. Notifying the customer after the fact is preferable to declining or returning the transaction.

Promptly notify consumers of overdraft protection program usage each time used:

While our customers receive a detailed notice each time a check is presented against non-sufficient funds, the requirement to disclose the amount of time they have to return their accounts to a positive balance and the consequences of not returning the account to a positive balance is cumbersome. The customer receives this information when the account is opened. They also receive this information in letter form subsequent to the overdraft (if not covered quickly).

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